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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,533	10/30/2000	Ross G. Kaminsky	99,858	7284

20306 7590 09/23/2005	EXAMINER
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606	NGUYEN, NGA B

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _12 May 2005_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under _Ex parte Quayle_, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-13_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-13_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is the answer to the communication filed on May 12, 2005,

which paper has been placed of record in the file.

2.   Claims 1-13 are pending in this application.

Response to Arguments/Amendment

3.   Applicant's arguments with respect to claims 1-13 have been considered but are

moot in view of new grounds of rejection.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Rickard et al (herein after Rickard), U.S. Patent No. 6,016,483.

Regarding to claim 1, Rickard discloses a method of opening options trading in

an automated exchange trading system that receives orders and quotes, and matches

the orders and quotes to generate trades, comprising the steps of:

accepting quotes and orders associated with an option class during a first time

period prior to the opening of trading (figure 2 and column 8, lines 17-30; at the first

stage, the central controller accept public orders and market maker orders);

receiving an opening value of an underlying security (column 9, lines 22-32;

receiving an opening trade of an underlying security);

determining opening price: for a plurality of option series in the option class

(column 6, lines 10-13 and column 7 lines 13-17); and

opening trading of the plurality of option series based on the updated opening

prices (column 1, lines 30-42; reopening trading after a trading halt in the underlying

security with the updated opening price);

receiving additional quotes and orders associated with the option class during a

second time period and responsively updating the opening prices (figure 2; column 8,

lines 35-42 and column 7, lines 27-33; receiving current position and the desired target

position of each of the market makers at the second stage);

Rickard does not teach randomly terminating the second time period such that

additional quotes and orders are not considered in updating the opening prices.

However, timing of the opening the receipt of quotes and orders and randomly

terminating the opening period is well known in the art. Therefore, it would have been

obvious to one with ordinary skill in the art at the time the invention was made to modify

Rickard's to adopt the well known feature above for the purpose of timing of the opening

the receipt of quotes and orders in order to utilize the invention.

Regarding to claim 2, Rickard discloses wherein the step of determining opening

prices is based on maximizing the number of contracts traded at the opening (column 8,

lines 32-35).

Regarding to claim 3, Rickard discloses wherein the step of responsively updating the opening prices comprises recalculating the opening prices based upon quotes and orders received during the second time period (column 6, lines 5-30).

Regarding to claim 4, Rickard discloses wherein the step of randomly terminating the second time period occur not less than approximately five seconds after the step of receiving the opening value of the underlying security (column 4, lines 60-65; 45 minutes).

Regarding to claim 5, Rickard discloses wherein the opening value is one of a) an opening quote, b) an opening trade and c) an opening quote and an opening trade (column 9, lines 20-32; an opening quote and an opening trade).

Regarding to claim 6, Rickard discloses a processor programmed with a set of instructions to perform the method of claim 1 (column 8, lines 5-16, 43-52; central controller 2).

Regarding to claim 7, Rickard discloses wherein the step of opening trading comprises opening trading on the plurality of option series in a random order (column 4, lines 60-65; matching orders).

Regarding to claim 8, Rickard discloses a method of opening option trading, comprising the steps of:

receiving quotes and orders associated with an option class during a first time period prior to the opening of option trading (figure 2 and column 8, lines 17-30; at the first stage, the central controller accept public orders and market maker orders);

receiving an opening value for a security associated with the option class (column 9, lines 22-32; receiving an opening trade of an underlying security);

calculating an expected opening price for a plurality of option series in the option class (column 6, lines 10-13 and column 7 lines 13-17);

publishing the expected opening prices during a second time period (column 9, lines 10-20);

receiving additional quotes and orders associated with the option class during the second time periods (figure 2; column 8, lines 35-42 and column 27-33; receiving current position and the desired target position of each of the market makers at the second stage); and

Rickard does not teach randomly terminating the second time period to open trading of the plurality of option series. However, timing of the opening the receipt of quotes and orders and randomly terminating the opening period is well known in the art. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Rickard's to adopt the well known feature above for the purpose of timing of the opening the receipt of quotes and orders in order to utilize the invention.

Regarding to claim 9, Rickard discloses further comprising the step of updating the expected opening prices based upon the additional quotes and order received during the second time period (column 4, lines 50-65).

Regarding to claim 10, Rickard discloses wherein an opening rotation period immediately follows the step of randomly terminating the second time period (column 1, lines 30-43).

Regarding to claim 11, Rickard discloses wherein orders and quotes received during the opening rotation period are not considered during the step of updating the expected opening prices (column 6, lines 5-30).

Regarding to claim 12, Rickard discloses wherein the expected opening prices are updated periodically based upon the additional quotes and orders (column 4, lines 50-65).

Regarding to claim 13, Rickard discloses a processor programmed with a set of instructions to perform the method of claim 8 (column 8, lines 5-16, 43-52; central controller 2).

Conclusion

6.   Claims 1-13 are rejected.

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (571) 272-6799.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

8.   Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

C/o Technology Center 3600
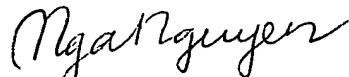
Washington, DC 20231

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),

or

(571) 273-0325 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Knox building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).

Nga B. Nguyen

August 4, 2005